

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2018-346-C – ORDER NO. 2019-\_\_\_\_  
JANUARY \_\_, 2019

IN RE:

Application of Horry Telephone Cooperative, Inc.	) ORDER GRANTING
for Designation as an Eligible Telecommunications	) EXPEDITED REVIEW AND
Carrier In Certain Census Blocks in Georgetown	) DESIGNATING HTC AS AN
and Marion Counties for Purposes of Receiving	) ELIGIBLE
Federal Connect America Fund (“CAF”)	) TELECOMMUNICATIONS
Phase II Support	) CARRIER IN CERTAIN
	) CENSUS BLOCKS IN
	) SOUTH CAROLINA
_____	)

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Amended Application of Horry Telephone Cooperative, Inc. (“HTC” or the “Company”) for designation as an Eligible Telecommunications Carrier (“ETC”) in seventeen eligible census blocks located in Georgetown County and two eligible census block located in Marion County in order to receive federal universal service support under Sections 214 and 254 of the Federal Telecommunications Act of 1996 and pursuant to the Federal Communications Commission’s (“FCC”) Connect America Fund Phase II (“CAF Phase II”) auction (the “Application”).

The Application was filed pursuant to § 214(e) of the Communications Act of 1934, and the rules and regulations of the Commission and the FCC. The Applicant has moved for expedited review of its Application and waiver of the formal evidentiary

hearing. Upon review of the Application and all of the supporting documents submitted by the Applicant, we grant the requested relief.

The Commission's Clerk's Office instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Amended Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

The South Carolina Office of Regulatory Staff ("ORS") is a statutory party to this action. See S.C. Code Ann. § 58-4-10(B). On January 7, 2019, counsel for the South Carolina Office of Regulatory Staff ("ORS") filed a letter with the Commission stating that ORS has no objection to the Amended Application and does not object to proceeding without a formal hearing in this matter.

No other comments or petitions to intervene were received in response to the notice. Thus, all interested persons have been afforded an opportunity for a hearing, as required by S.C. Code Ann. § 58-9-280(B), Section 1-23-320(a) of the South Carolina Administrative Procedures Act, and constitutional due process. Proceeding without a formal hearing in this matter would serve the public interest in administrative efficiency.

In support of its Application and request for expedited review of this matter, the Applicant has filed the testimony of Brent Groome, along with an Affidavit executed by Carlton Lewis, an officer of the Company, attesting to the truth and accuracy of the

Amended Application and testimony. Mr. Groome’s testimony and the other supporting information included in the Applicant’s filings demonstrate the following:

**I. Introduction**

HTC is an incumbent local exchange carrier (“ILEC”) and provides local exchange services, both as an ILEC within its ILEC service area and as a competitive local exchange carrier outside its ILEC service area, as well as intrastate exchange access service within geographical areas established by the Public Service Commission of South Carolina (the “Commission”). HTC is an ETC in its ILEC service area.<sup>1</sup> HTC’s former affiliate, HTC Communications, LLC, was previously designated as a competitive ETC within its licensed wireless service territory for purposes of receiving federal high-cost support for its wireless operations.<sup>2</sup> HTC consolidated its operations on or around January 1, 2011, acquiring its wholly-owned subsidiary HTC Communications, LLC, and assuming all of its assets, liabilities and obligations.<sup>3</sup> HTC ceased being an ETC with respect to the provision of wireless services effective October 18, 2013.<sup>4</sup>

The Federal Communications Commission (“FCC”) released the USF/ICC Transformation Order<sup>5</sup> in an effort to comprehensively reform and modernize the high-cost

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<sup>1</sup> See Commission Order No. 1997-958 in Docket No. 1997-239-C.

<sup>2</sup> See Commission Order No. 2008-273 in Docket No. 2007-402-C.

<sup>3</sup> See Commission Order No. 2012-261 in Docket Nos. 1991-514-C, 1998-49-C, and 2007-402-C.

<sup>4</sup> See Commission Order No. 201-811 in Docket Nos. 2007-402-C and 2013-14-C.

<sup>5</sup> See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates*

*for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Inter-carrier*

*Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service*

program within the universal service fund and the intercarrier compensation system to reposition support for networks capable of providing both voice and broadband services. The FCC created the Connect America fund and shifted support in price cap areas so that support would be provided through a combination of a forward-looking model of the cost of constructing multi-purpose networks, and established a competitive bidding process for support to these areas. The FCC offered support based on a forward-looking cost model to incumbent price cap carriers serving certain high-cost areas in exchange for committing to offer voice and broadband services meeting certain service requirements in those areas. In those areas where the incumbent price cap carrier declined model-based support and in areas within the incumbent price cap carrier service territories where the FCC did not offer support, the FCC decided to award support through a competitive bidding process. HTC identified service areas in Frontier Communications and AT&T's incumbent markets which were unserved or underserved and which could be serviced by HTC utilizing a fixed wireless application.

HTC participated in the FCC's Connect America Fund Phase II ("CAF II") auction ("Auction 903") and was deemed a winning bidder for 80 locations in the eligible census blocks in the census block groups identified in Exhibit A to the Amended Application (the nineteen census blocks for which funding is available are hereinafter referred to as the

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*Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN

Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC

Red 17663 (2011) ("*USF/ICC Transformation Order and/or FNPRM*"); *aff'd sub nom.*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

“Funded Areas”).<sup>6</sup> By its Amended Application and supporting documents, Company seeks an Order from the Commission designating Company as an ETC in the Funded Areas, pursuant to § 214(e) of the Communications Act of 1934.

## **II. Background**

On August 28, 2018, the FCC released a Public Notice<sup>7</sup> announcing the conclusion of Auction 903. Areas that will receive support through this auction are locations in census blocks in rural areas served by price cap carriers that do not have access to broadband at speeds of at least 10 Mbps downstream and 1 Mbps upstream (“10/1”). The FCC has determined that these areas are rural, sparsely populated, and historically, there has not been a viable business case that makes financial and operational sense for investing in state-of-the-art broadband infrastructure in the absence of sufficient and predictable universal service support. The CAF Phase II funding, grant funding, loans and other financial tools, provide sufficient incentives for entities, such as HTC, to expand their existing footprints and serve the rural areas identified for support in Auction 903.

Carriers awarded support in this auction must deploy broadband to the specified number of locations in eligible census blocks in the census block groups in which they bid within a six-year period at the speed tier specified in their bid. HTC’s bid was to provide broadband at speed tiers greater than or equal to 25 Mbps downstream and 3 Mbps

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<sup>6</sup> See Exhibits A and B, list of Census Blocks and total number of locations by Census Block Group, and map showing location of Census Block Groups where HTC was the winning bidder in the CAF Phase II auction.

<sup>7</sup> Connect America Fund Phase II Auction (Auction 903) Closes; Winning Bidders Announced; FCC Form 683 Due October 15, 2018, Public Notice, AU Docket No. 17-182, WC Docket No. 10-90, DA 18-887 (rel. Aug. 28, 2018) (“Provisional Winners PN”).

upstream within the six-year budget period. Funding in the form of CAF II support will be provided monthly over a ten-year period based upon the amount of their winning bid.

HTC participated in this auction and was among the 103 providers listed as provisional winners. HTC will receive \$233,490 over a ten-year period to build a network capable of delivering 25 Mbps/3 Mbps broadband to the 80 locations in the Funded Areas upon completion of certain post-auction requirements. One of these requirements is for the Company to be designated an ETC in the Funded Areas by February 25, 2019.<sup>8</sup> In addition to broadband services, customers will also be provided with voice grade access to the public switched network.

### **III. Requirements for Designation as an ETC**

Section 214(e)(1) of the Communications Act of 1934, as amended and Section 54.201(d) of the rules of the FCC require ETCs to, throughout their service areas for which designation is received, (1) offer the services supported by federal universal service support mechanisms, (2) either using its own facilities or a combination of its own facilities and resale of another carrier's services, and to (3) advertise the availability of such services and the charges using media of general distribution.<sup>9</sup>

#### **A. An ETC Must Offer Supported Services Through its Own Facilities or Through a Combination of its Own Facilities and Resale**

In order to be designated as an ETC, a carrier must offer the services that are supported by universal support mechanisms, which are voice telephony services and

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<sup>8</sup> *Id.* at p. 6.

<sup>9</sup> 47 U.S.C. §214(e)(1); 47 C.F.R § 54.201(d)(1). 47 C.F.R § 54.201(d)(1) defines the term “facilities” as meaning “any physical components of the telecommunications network that are used in the transmission or routing of the services that are designated for support . . . .”

broadband service as defined in Section 54.101 of the FCC's Rules,<sup>10</sup> either through its own facilities or a combination of its own facilities and resale of another carrier's facilities. Section 54.101(a)(1) defines voice telephony services eligible for universal service support as:

services [that] provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.<sup>11</sup>

Section 54.101(a)(2) defines broadband Internet access services eligible for universal service support as:

services [that] provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.<sup>12</sup>

The FCC has additional buildout requirements for carriers that are awarded CAF Phase II auction support. Pursuant to these requirements, HTC has committed and must be able to provide 25 Mbps/3 Mbps broadband to the 80 locations in the Funded Areas within a six-year period.<sup>13</sup>

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<sup>10</sup> 47 C.F.R. §54.101.

<sup>11</sup> 47 C.F.R. §54.101(a)(1).

<sup>12</sup> 47 C.F.R. §54.101(a)(2). Section 54.101(c) requires ETCs "subject to a high-cost public interest obligation to offer broadband Internet access services" to offer broadband services "within the areas where it receives high-cost support."

<sup>13</sup> For recipients of CAF Phase II support, the FCC waived the requirement that winning bidders seeking an FCC ETC designation file a five-year improvement plan and demonstrate that it will satisfy applicable consumer protection and service quality standards. *See* WCB Reminds Connect America Fund Phase II

**B. HTC Has Demonstrated That It Will Offer and Provide Each of the Above-listed Services Through Its Own Facilities**

**1. Voice Grade Access to the Public Switched Network or its Functional Equivalent**

HTC's Amended Application and testimony provide that voice grade access to the Public Switched Network or its functional equivalent is provided by the Company using its facilities-based network. Users will have equipment installed at their premises which will enable the user to transmit and receive voice communications, including signaling associated with the transmission and receipt of telecommunications traffic. This will enable users to place and receive voice grade calls to and from other HTC customers and from all other users on the public switched network. HTC will provide this voice grade access to its customers through interconnection of HTC facilities and the public switched telephone network via its IP-Enabled/TDM Metaswitch.

**2. HTC Has Demonstrated That It Will Offer Minutes of Use for Local Service Provided at No Additional Charge to End Users**

HTC's Amended Application and Testimony provide that the Company will offer voice products in the Funded Areas provisionally awarded to the Company. FCC regulations require that an ETC applicant "demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation."<sup>14</sup> The FCC further defines local usage as a measure of minutes of use of exchange service provided for a fee and without an additional charge to end users. HTC

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Auction Applicants of the Process For Obtaining a Federal Designation as an Eligible Telecommunications Carrier, Public Notice, WC Docket Nos. 09-197, 10-90, DA 18-714 (rel. July 10, 2018) at pp 4-5.

<sup>14</sup> 47 C.F.R. 54.202 (a)(1)(ii)(4).



currently offers several bundled calling plans and packages that make no distinction between local and long distance usage. The bundled calling plans HTC currently offers are comparable to those offered by the incumbent local exchange carriers in the areas in which HTC seeks ETC designation, including its incumbent local exchange areas within Horry County and its CLEC exchange areas within Georgetown County.

**3. HTC Has Demonstrated That It Will Satisfy the Requirement for Access to Emergency Services**

HTC's Amended Application and testimony confirm that HTC will provide access to emergency services through access to public service answering points ("PSAPs") by dialing "911" in order to reach emergency services. The requirement that ETCs offer access to 911 or enhanced 911 ("E911") applies only "to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems."<sup>15</sup> HTC satisfies this requirement by providing its customers with access to enhanced emergency services by dialing "911." HTC, as an ETC, will be able to expand its coverage area to allow greater access to emergency services for its customers in remote and currently unserved and underserved portions of the three census blocks for which it seeks ETC designation.

**4. HTC Has Demonstrated That It Will Offer Lifeline and Toll Limitation Services**

HTC's Amended Application and testimony provide that it will offer Lifeline discounts to qualifying customers and comply with federal Lifeline requirements in fulfillment of the requirement that ETCs offer Lifeline discounts to qualifying customers.

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<sup>15</sup> 47 C.F.R. § 54.101(a)(5).

FCC rules generally require ETCs to offer toll limitation services.<sup>16</sup> However, toll limitation service “does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service.”<sup>17</sup> Because HTC’s current bundled calling plans do not make a distinction between local and toll calls, HTC customers have little need for toll limitation service. However, HTC states that it will offer toll limitation service to address the needs of qualifying low-income customers interested in obtaining a basic voice connection to the public telephone network, if so requested. Toll limitation service “denotes either toll blocking or toll control service for [ETCs] that are incapable of providing both services” or denotes both toll blocking and toll control service for ETCs that are capable of providing both services.<sup>18</sup> HTC states that it is able to provide both toll blocking and toll control services, or either of those services, and will provide toll limitation service in the Funded Areas.

#### **5. HTC Has Demonstrated That It Will Advertise its Universal Service Offerings**

By its Amended Application and testimony, HTC commits to advertise the availability of, and charges for, the supported services using media of general distribution, consistent with its existing advertising practices. The advertising will occur through a combination of media channels, such as the local newspapers in each community, website, TV ads and social media. HTC will advertise these offerings in a manner that is designed

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<sup>16</sup> 47 C.F.R. § 54.401(a)(2).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* 47 C.F.R. § 54.404(b) defines toll blocking as “a service provided by an [ETC] that lets subscribers elect not to allow the completion of outgoing toll calls from their telecommunications channel” while 47 C.F.R. § 54.404(c) defines toll control as “a service provided by an [ETC] that allows subscribers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.”

to fully inform potential customers of the services available to them, to disclose all associated rates, and to insure that qualifying low-income individuals are informed about the availability and cost of Lifeline programs.

**C. HTC Has Demonstrated That It Meets the Additional Eligibility Criteria Adopted by the FCC**

In its *2005 ETC Order*,<sup>19</sup> the FCC adopted additional criteria that all ETC applicants must satisfy in order to be granted ETC status. The criteria, as set forth in Section 54.202 of the FCC's Rules, require that an ETC applicant must: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area; (3) demonstrate its ability to remain functional in emergency situations; (4) demonstrate that it will satisfy consumer protection and service quality standards.<sup>20</sup> HTC's Amended Application and testimony provide that, to the extent applicable, the Company will meet each of these additional criteria.

**1. HTC Has Certified That It Will Comply with Service Requirements Applicable to the Support that it Receives**

In its *2005 ETC Order*, the FCC required that an ETC applicant "make specific commitments to provide service to requesting customers in the service areas for which it is designated as an ETC."<sup>21</sup> Specifically, the FCC found that

if the ETC's network already passes or covers the potential customer's premises, the ETC should provide service immediately. In those instances where a request comes from a potential customer within the applicant's

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<sup>19</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (rel. Mar. 17, 2005) ("*2005 ETC Order*").

<sup>20</sup> *See*, 47 C.F.R. § 54.202.

<sup>21</sup> *2005 ETC Order* at ¶ 22.

licensed service area but outside its existing network coverage, the ETC applicant should provide service within a reasonable period of time if service can be provided at reasonable cost by: (1) modifying or replacing the requesting customer's equipment; (2) deploying a roof-mounted antenna or other equipment; (3) adjusting the nearest cell tower; (4) adjusting network or customer facilities; (5) reselling services from another carrier's facilities to provide service; or (6) employing, leasing, or constructing an additional cell site, cell extender, repeater, or other similar equipment.<sup>22</sup>

The FCC stated that if an ETC applicant determines that it cannot serve the customer using one or more of these methods, “then the ETC must report the unfulfilled request to the [FCC] within 30 days after making such determination.”<sup>23</sup>

HTC has certified that it will comply with the service requirements applicable to the supported voice and broadband services that it will be offering in the Funded Areas, including the requirements for the CAF II auction program.

## **2. Five-Year Plan for Proposed Improvements or Upgrades**

As stated in footnote 14 herein, the FCC has waived the requirement that winning bidders seeking an FCC ETC designation file a five-year improvement plan in connection with CAF Phase II funding requests. The FCC found that the more specific measures it had adopted for CAF recipients to track deployment, including annual reporting of service to geocoded locations and certifications of compliance with benchmark milestones, provided a “more defined yardstick by which to measure their progress towards the universal availability of voice and broadband service in their areas.”<sup>24</sup> Likewise, HTC

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<sup>22</sup> *Id.* (footnotes omitted).

<sup>23</sup> *Id.*

<sup>24</sup> See WCB Reminds Connect America Fund Phase II Auction Applicants of the Process For Obtaining a Federal Designation as an Eligible Telecommunications Carrier, Public Notice, WC Docket Nos. 09-197, 10-90, DA 18-714 (rel. July 10, 2018) at pp 4-5, and p. 5, fn 34 (*quoting* 2016 Rate-of-Return Reform Order, 31 FCC 3166, 3168, ¶ 216).

requests that the Commission waive the requirements of Reg. 103-690.C.(a)(1)(B) to submit a two-year plan describing the proposed improvements or upgrades. HTC has stated it will comply with the more stringent detailed broadband buildout obligations imposed by the FCC. Specifically, each support recipient must complete construction and begin commercially offering service to 40 percent of the requisite number of locations in a state by the end of the third year of funding, and to an additional 20 percent in each subsequent year, with 100 per cent by the end of the sixth year.<sup>25</sup> To monitor compliance, the FCC has adopted reporting requirements which include: “reporting a list of geocoded locations each year to which the support recipient is offering the required voice and broadband services, making a certification when the support recipient has met service milestones, and submitting the annual FCC Form 481 report.”<sup>26</sup> If a recipient fails to offer service to the required number of locations by a service milestone, FCC rules require quarterly status reporting and, in some instances, support is withheld until compliance is achieved.<sup>27</sup> Recipients are also subject to requirements to conduct quarterly measurements of speed and latency and annually report network performance.<sup>28</sup>

In lieu of filing the two-year plan provided for in Reg. 103-690.C.(a)(1)(B), HTC has committed to making available to the Commission and ORS all reports it is required to

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<sup>25</sup> See *Connect America Fund Phase II Auction Scheduled for July 24, 2018; Notice and Filing Requirements and Other Procedures for Auction 903*, Public Notice, 33 FCC Rcd 1428, ¶ 14 (2018).

<sup>26</sup> *Id.* at ¶ 17 (citations omitted).

<sup>27</sup> *Id.* citing §§ 54.315(c)(4), 54.320.

<sup>28</sup> See *Connect America Fund*, WC Docket No. 10-90, Order, DA 18-710 (rel. July 6, 2018).

file with the FCC in connection with the CAF Phase II funding for the Funded Areas, as described above.

**3. HTC Has Demonstrated That It Will Remain Functional in Emergency Situations**

HTC has certified that it is able to function in emergency situations as set forth in §54.202(a)(2).<sup>29</sup> HTC's Amended Application and testimony state that HTC's voice and broadband network is designed to remain functional in emergency situations without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations as required by Section 54.202(a)(2).

The Company's Amended Application and testimony also reveal that HTC complies with the FCC's backup power requirements that became effective in 2015.<sup>30</sup>

**4. HTC Has Demonstrated That It Will Satisfy Consumer Protection and Service Quality Standards**

In establishing this certification in its *2005 ETC Order*, the FCC found that an ETC must make "a specific commitment to objective measures to protect consumers."<sup>31</sup> The FCC found that for wireless ETCs, compliance with CTIA's Consumer Code for Wireless Service would satisfy this requirement, and that the sufficiency of other commitments

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<sup>29</sup> Section 54.202(a)(2) requires ETCs that are designated by the Commission to "demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of maintaining traffic spikes resulting from emergency situations."

<sup>30</sup> 47 C.F.R. § 12.5.

<sup>31</sup> *2005 ETC Order* at ¶ 28

would be considered on a case-by-case basis.<sup>32</sup> In this context, the FCC stated, “to the extent a wireline or wireless ETC applicant is subject to consumer protection obligations under state law, compliance with such laws may meet our requirement.”<sup>33</sup>

As stated in footnote 14 herein, the FCC has waived the requirement that winning bidders seeking an FCC ETC designation certify that it will satisfy consumer protection and service quality standards. Nevertheless, HTC has certified that it is complying with applicable service quality standards and consumer protection rules, including complying with Lifeline service standards pursuant to 47 C.F.R. § 54.408 including minimum broadband speed requirements, data usage allowance, and accessibility to WIFI devices.

**D. HTC Has Demonstrated That It Will Satisfy Applicable State-Specific ETC Requirements, With Some Requested Exceptions**

Commission Regulation 103-690.C. provides the requirements for initial designation as an ETC. The state regulation generally tracked the corresponding federal regulations at the time the state regulation was promulgated in 2008. Since that time, the federal regulations have changed, and HTC avers that some of the state-specific requirements may not be applicable.

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<sup>32</sup> *Id.* The FCC noted that under the CTIA Consumer Code, wireless carriers agree to: “(1) disclose rates and terms of service to customers; (2) make available maps showing where service is generally available; (3) provide contract terms to customers and confirm changes in service; (4) allow a trial period for new services; (5) provide specific disclosures in advertising; (6) separately identify carrier charges from taxes on billing statements; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; and (10) abide by policies for protection of consumer privacy.” *Id.* at n. 71.

<sup>33</sup> *Id.* at n. 72.

HTC has committed to providing service throughout its proposed designated service area to all customers making a reasonable request for service, as required by R. 103-690.C.(1)(A).

HTC requests a waiver of the requirement to submit a 2-year plan pursuant to R. 103-690.C.(1)(B) for the reasons stated above. In lieu of filing the two-year plan provided for in Reg. 103-690.C.(a)(1)(B), HTC testified that it will make available to the Commission and ORS all reports it is required to file with the FCC in connection with the CAF Phase II funding for the Funded Areas.

As explained in more detail above, HTC has demonstrated its ability to remain functional in emergency situations, in compliance with R. 103-690.C.(2). HTC has demonstrated that it will satisfy applicable consumer protection and service quality standards, in compliance with R. 103-690.C.(3).

HTC has demonstrated that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation, in compliance with R. 103-690.C.(a)(4).

As required by R. 103-690.C.(a)(5)-(7), HTC has provided the Affidavit of Carlton Lewis, an officer of the Company, certifying that the Company acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area; that the Company does offer or will offer the services supported by federal universal service support by using its own facilities or a combination of its own facilities and resale of another carrier's services; and that it



does or will advertise in a media of general distribution the availability of such services, including Lifeline services and the applicable charges.

HTC also requests a waiver of R. 103-690.C.(b) to the extent it would prohibit designation of HTC as an ETC in an area smaller than a wire center. As described above, the FCC has established a mechanism to ensure the deployment of broadband to unserved and underserved areas. It has done so by undertaking a granular analysis, at the census block and location level, to target funding to such areas. According to HTC, if the Commission were to deny the ETC designation HTC requests at the census block level in order to obtain available federal funding to serve the Funded Areas, those areas likely would remain unserved or underserved.

**E. HTC Has Demonstrated that Granting its Request for ETC Designation Will Serve the Public Interest**

HTC's Amended Application and testimony provide that designation as an ETC for the Funded Areas will allow it to build out unserved or underserved areas using federal funding, bringing the benefits of high-speed broadband to these areas. Accordingly, it is in the public interest to designate Company as an ETC in the CAF Phase II Funded Areas. According to HTC, once the Commission grants Company's ETC application and the FCC approves Company for funding, the Company will receive \$233,490 over a ten-year period which it will use to provide 25 Mbps/3 Mbps broadband to those residing and working in the Funded Areas.

After full consideration of the applicable law, the Company's Application, and the evidence of record presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. HTC is an incumbent local exchange carrier (“ILEC”) and provides local exchange services, both as an ILEC within its ILEC service area and as a competitive local exchange carrier outside its ILEC service area, as well as intrastate exchange access service within geographical areas established by the Commission.

2. HTC participated in the FCC’s Connect America Fund Phase II (“CAF II”) auction (“Auction 903”) and was listed as a provisional winning bidder for 80 locations in the eligible census blocks in the census block groups identified in Exhibit A to the Amended Application.

3. HTC is eligible to receive \$233,490 over a ten-year period to build a network capable of delivering 25 Mbps/3 Mbps broadband to the 80 locations in the Funded Areas upon completion of certain post-auction requirements. One of these requirements is for the Company to be designated an ETC in the Funded Areas by February 25, 2019.

4. Section 214(e)(1) of the Communications Act of 1934, as amended and Section 54.201(d) of the rules of the FCC require ETCs to, throughout their service areas for which designation is received, (1) offer the services supported by federal universal service support mechanisms, (2) either using its own facilities or a combination of its own facilities and resale of another carrier’s services, and to (3) advertise the availability of such services and the charges using media of general distribution.

5. The FCC has additional buildout requirements for carriers that are awarded CAF Phase II auction support. Pursuant to these requirements, HTC has committed to

providing and must be able to provide 25 Mbps/3 Mbps broadband to the 80 locations in the Funded Areas within a six-year period. In addition to broadband services, customers will also be provided with voice grade access to the public switched network.

6. HTC has demonstrated that it will offer and provide each of the services supported by federal universal service support mechanisms, either using its own facilities or a combination of its own facilities and resale of another carrier's services.

7. HTC has demonstrated that it offers a local usage plan comparable to the one offered by the incumbent LEC(s) in the service areas for which it seeks designation.

8. HTC has demonstrated that it will satisfy the requirement for access to emergency services by providing its customers with access to enhanced emergency services by dialing "911."

9. HTC has demonstrated that it will offer Lifeline and toll limitation services to qualifying customers and will comply with federal Lifeline requirements.

10. HTC has committed to advertising the availability of, and charges for, the supported services using media of general distribution, in a manner that is designed to fully inform potential customers of the services available to them, to disclose all associated rates, and to insure that qualifying low-income individuals are informed about the availability and cost of Lifeline programs.

11. HTC has demonstrated that it meets the additional eligibility criteria adopted by the FCC. Specifically, HTC has certified that it will comply with applicable service requirements; and that it will remain functional in emergency situations. The FCC has waived the requirement to file a five-year plan for proposed improvements and

upgrades, and the requirement to certify that it will satisfy consumer protection and service quality standards for winning CAF Phase II bidders.

12. HTC has demonstrated that it will satisfy applicable state-specific ETC requirements, with specific waiver requests. HTC requests a waiver of the requirement to submit a 2-year plan pursuant to R. 103-690.C.(1)(B). HTC points to the fact that the FCC has waived the requirement that winning bidders seeking an FCC ETC designation file a five-year improvement plan in connection with CAF Phase II funding requests. The FCC found that the more specific measures it had adopted for CAF recipients to track deployment, including annual reporting of service to geocoded locations and certifications of compliance with benchmark milestones, provided a “more defined yardstick by which to measure their progress towards the universal availability of voice and broadband service in their areas.”<sup>34</sup> In lieu of filing the two-year plan provided for in Reg. 103-690.C.(a)(1)(B), HTC testified it will make available to the Commission and ORS all reports it is required to file with the FCC in connection with the CAF Phase II funding for the Funded Areas. We find that providing the referenced reports to the Commission and to ORS is an acceptable alternative to the 2-year plan filing requirement, as it will provide a well-defined yardstick by which to measure HTC’s progress towards the availability of voice and broadband service in the Funded Areas.

13. HTC also requests a waiver of R. 103-690.C.(b) to the extent it would prohibit designation of HTC as an ETC in an area smaller than a wire center. The FCC has

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<sup>34</sup> See WCB Reminds Connect America Fund Phase II Auction Applicants of the Process For Obtaining a Federal Designation as an Eligible Telecommunications Carrier, Public Notice, WC Docket Nos. 09-197, 10-90, DA 18-714 (rel. July 10, 2018) at pp 4-5, and p. 5, fn 34 (*quoting* 2016 Rate-of-Return Reform Order, 31 FCC 3166, 3168, ¶ 216).

established a mechanism to ensure the deployment of broadband to unserved and underserved areas. It has done so by undertaking a granular analysis, at the census block and location level, to target funding to such areas. We find that HTC's request for designation at the census block level is in the public interest, as it will allow HTC to obtain available federal funding to serve the Funded Areas, which otherwise likely would remain unserved or underserved.

### CONCLUSIONS OF LAW

1. The Commission concludes that HTC meets all of the federal requirements for designation as an ETC in the areas for which it requests such designation, *i.e.*, seventeen census blocks in Georgetown County and two census blocks in Marion County as identified in Exhibit A to HTC's Amended Application filed in this docket, a copy of which is attached hereto as Exhibit A.

2. The Commission concludes that HTC meets all of the state requirements for designation as an ETC in the areas for which it requests such designation, with the exception of two requirements for which waiver is requested and granted, as explained below.

3. The Commission grants HTC's request for a waiver of the requirement to file a two-year plan describing proposed improvements or upgrades to HTC's network. The Commission may waive a rule or regulation where circumstances indicate that a waiver is appropriate, upon a finding that such waiver is not contrary to the public interest.<sup>35</sup> In lieu of filing the two-year plan provided for in Reg. 103-690.C.(a)(1)(B), HTC shall make

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<sup>35</sup> See S.C. Code Ann. Regs. 103-803.

available to the Commission and ORS all reports it is required to file with the FCC in connection with the CAF Phase II funding for the Funded Areas, as described above. We conclude that providing the referenced reports to the Commission and to ORS is an acceptable alternative to the 2-year plan filing requirement, as it will provide a well-defined yardstick by which to measure HTC's progress towards the availability of voice and broadband service in the Funded Areas.

4. HTC also requests a waiver of R. 103-690.C.(b) to the extent it would prohibit designation of HTC as an ETC in an area smaller than a wire center. As described above, the FCC has established a mechanism to ensure the deployment of broadband to unserved and underserved areas. It has done so by undertaking a granular analysis, at the census block and location level, to target funding to such areas. According to HTC, if the Commission were to deny the ETC designation HTC requests at the census block level in order to obtain available federal funding to serve the Funded Areas, those areas likely would remain unserved or underserved. Therefore, it is in the public interest to grant a waiver of the portion of R. 103-690.C(b) that provides that the Commission shall not designate an ETC service area smaller than an entire wire center, in order to allow designation of HTC as an ETC at the census block level as described herein.

5. The Commission concludes that HTC has made the certifications required by law. HTC has provided the Affidavit of Carlton Lewis, an officer of the Company, certifying that the Company acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area; that the Company does offer or will offer the services supported by

federal universal service support by using its own facilities or a combination of its own facilities and resale of another carrier's services; and that it does or will advertise in a media of general distribution the availability of such services, including Lifeline services and the applicable charges.

6. The Commission concludes that it is in the public interest to grant HTC's request for designation as an ETC in the seventeen census blocks in Georgetown County and two census blocks in Marion County for which it seeks designation. Granting HTC's Amended Application will allow HTC to build out unserved or underserved areas using federal CAF Phase II funding, bringing the benefits of high-speed broadband to citizens residing and/or working in those areas.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. The Commission grants HTC's request for designation as an ETC in the seventeen census blocks in Georgetown County and two census blocks in Marion County for which it seeks designation.

2. The Commission waives the requirement that ETC designation not be granted at a level below the wire center.

3. The Commission grants HTC's request for waiver of the requirement to file a two-year plan describing proposed improvements and upgrades to HTC's network. In lieu of filing the two-year plan, HTC is directed to make available to the Commission and to ORS all reports it is required to file with the FCC in connection with the CAF Phase II funding for the Funded Areas.

4. The requested relief is granted on an expedited basis to allow HTC to meet the federal requirement to be designated as an ETC in the Funded Areas not later than February 25, 2019.

5. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

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Comer H. Randall, Chairman

ATTEST:

\_\_\_\_\_  
Elliott F. Elam, Jr., Vice Chairman

(SEAL)



**EXHIBIT A**

**CENSUS BLOCK GROUPS AND NUMBER OF LOCATIONS:**

450439204001	SC	Georgetown	38
450439205051	SC	Georgetown	11
450679505003	SC	Marion	31

**ELIGIBLE CENSUS BLOCKS WITHIN THE CENSUS BLOCK GROUPS (*I.E.*  
CENSUS BLOCKS FOR WHICH HTC SEEKS ETC DESIGNATION):**

block_id	stateabbr	county_name	cbg_id
450439204001015	SC	Georgetown	450439204001
450439204001027	SC	Georgetown	450439204001
450439204001053	SC	Georgetown	450439204001
450439204001100	SC	Georgetown	450439204001
450439204001103	SC	Georgetown	450439204001
450439204001107	SC	Georgetown	450439204001
450439204001113	SC	Georgetown	450439204001
450439204001137	SC	Georgetown	450439204001
450439204001175	SC	Georgetown	450439204001
450439204001178	SC	Georgetown	450439204001
450439204001198	SC	Georgetown	450439204001
450439205051042	SC	Georgetown	450439205051
450439205051057	SC	Georgetown	450439205051
450439205051079	SC	Georgetown	450439205051
450439205051080	SC	Georgetown	450439205051
450679505003026	SC	Marion	450679505003
450679505003037	SC	Marion	450679505003